

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 551

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.47-2006, SECTION 2, AS AMENDED BY P.L.91-2006, SECTION 2, AND AS AMENDED BY P.L.123-2006, SECTION 12, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

- (1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.
- (2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.
- (3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.
- (4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.
- (5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.
- (6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to



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meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under *IC 4-32.2-3-3(b)*, IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

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(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 **(repealed)**.

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 **(repealed)**.

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) **(repealed)** or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) **(repealed)** or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) *A rule adopted by the Indiana finance authority:*

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the ~~number of copies~~ format of the rule and other documents to be submitted under this subsection.

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(d) After the document control number has been assigned, the agency shall submit the rule to the *secretary of state publisher* for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The *secretary of state publisher* shall determine the *number of copies format* of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the *secretary of state publisher* shall:

- (1) accept the rule for filing; and
- (2) *file stamp and indicate electronically record* the date and time that the rule is accepted. *on every duplicate original copy submitted.*

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

- (1) The effective date of the statute delegating authority to the agency to adopt the rule.
- (2) The date and time that the rule is accepted for filing under subsection (e).
- (3) The effective date stated by the adopting agency in the rule.
- (4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), ~~and~~ (k), *and* (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

- (1) sections 24 through 36 of this chapter; or
- (2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

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(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) *A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.*

SECTION 2. IC 5-31 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 31. INDIANA HEALTH INFORMATICS CORPORATION

Chapter 1. Purpose

Sec. 1. (a) It is the intent of the general assembly to ensure and improve the health of the citizens of Indiana by encouraging and facilitating the development of:

(1) a statewide system for the electronic exchange of health care information; and

(2) other health informatics functions in Indiana.

(b) The general assembly finds that the goals described in subsection (a) can be carried out and achieved most efficiently by a body politic and corporate.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Board" refers to the board of the corporation described in IC 5-31-4-1.

Sec. 3. "Corporation" refers to the Indiana health informatics corporation established by IC 5-31-3-1.

Sec. 4. "Health care provider" means:

(1) a physician, a hospital, a health facility (including health facilities under IC 16-28), a psychiatric hospital, an emergency ambulance service, a dentist, a registered or licensed practical nurse, a pharmacist, a pharmacy, a physician assistant, an optometrist, a podiatrist, a chiropractor, a physical therapist, a respiratory care practitioner, an occupational therapist, a psychologist, a

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paramedic, or an emergency medical technician; and
 (2) an agent of a person or an entity described in subdivision (1).

Sec. 5. "Health informatics" means the following:

(1) The electronic exchange of health care information between entities in the health care system, including at least the following:

- (A) Physicians and other health care providers.
- (B) Health insurance companies and health maintenance organizations.
- (C) Federal and state governmental health payers.
- (D) Employers.
- (E) Pharmacies and pharmacy benefit managers.
- (F) Laboratories.
- (G) Public health agencies.

(2) The provision of the most current, complete, and accurate information possible when making health care decisions regarding patients.

(3) The sharing and exchange of health care information between organizations that are owners or custodians of the health care information.

(4) The use of information technology to enable and improve the exchange and presentation of health care information.

(5) The adoption and use of electronic medical record technology, where appropriate, within the health care system.

Chapter 3. Indiana Health Informatics Corporation

Sec. 1. The Indiana health informatics corporation is established.

Sec. 2. (a) The corporation is a body politic and corporate, not a state agency but an independent instrumentality exercising essential public functions.

(b) The corporation and the corporation's funds, accounts, and financial affairs shall be examined biennially by the state board of accounts under IC 5-11.

Sec. 3. Employees of the corporation are not employees of the state.

Sec. 4. The board shall appoint the president of the corporation, who shall serve at the pleasure of the board.

Chapter 4. Corporation Board

Sec. 1. The corporation shall be governed by a board.

Sec. 2. (a) The board is composed of the following nine (9) members, none of whom may be a member of the general

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assembly:

- (1) The secretary of family and social services, or the secretary's designee.
- (2) The state health commissioner, or the state health commissioner's designee.
- (3) Seven (7) individuals appointed by the governor, of which at least:
 - (A) one (1) individual must be a licensed physician who is actively engaged in the practice of medicine; and
 - (B) one (1) individual must be engaged in the administration of a hospital licensed under IC 16-21.

(b) The individuals appointed under subsection (a)(3) must be employed in or retired from the private or nonprofit sector or academia. In making the appointments under subsection (a)(3), the governor shall:

- (1) consider an individual's knowledge of and experience in matters related to health informatics and health care; and
- (2) attempt to provide representation to the various geographical areas of Indiana.

Sec. 3. (a) The following apply to a member of the board appointed under section 2(a)(3) of this chapter:

- (1) Except as provided in subsection (b), a member's term of office is four (4) years.
- (2) A member holds office for the term of appointment and continues to serve after expiration of the appointment until a successor is appointed and qualified.
- (3) A member is eligible for reappointment.
- (4) Notwithstanding subdivisions (1) through (3), a member serves at the pleasure of the governor.

(b) Three (3) of the initial members of the board appointed under section 2(a)(3) of this chapter shall serve a term of two (2) years. Four (4) of the initial members of the board appointed under section 2(a)(3) of this chapter shall serve a term of four (4) years.

Sec. 4. The governor shall select the chairperson of the board.

Sec. 5. (a) The members of the board appointed under section 2(a)(3) of this chapter are entitled to a salary per diem for attending meetings equal to the per diem provided by law for members of the general assembly.

(b) The members of the board are entitled to receive:

- (1) reimbursement for traveling expenses to the same extent as is provided under IC 4-13-1-4 to officers and employees of state agencies; and

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(2) reimbursement of other expenses actually incurred in connection with the members' duties as approved by the budget agency.

Sec. 6. Six (6) members of the board constitute a quorum for the transaction of business. The affirmative vote of at least six (6) members is necessary for action to be taken by the board. Members may not vote by proxy.

Sec. 7. Meetings of the board shall be held at the call of the chairperson or whenever any six (6) members request a meeting. The members shall meet at least once every three (3) months to attend to the business of the board.

Sec. 8. (a) This section applies to any meeting of the board.

(b) A member of the board may participate in a meeting of the board using any means of communication that permits:

- (1) all other board members participating in the meeting; and**
- (2) all members of the public physically present at the place where the meeting is conducted;**

to simultaneously communicate with each other during the meeting.

(c) A member of the board who participates in a meeting under subsection (b) is considered to be present at the meeting.

(d) The memorandum of the meeting prepared under IC 5-14-1.5-4 must also state the name of:

- (1) each member who was physically present at the place where the meeting was conducted;**
- (2) each member who participated in the meeting using a means of communication described in subsection (b); and**
- (3) each member who was absent.**

Chapter 5. General Powers

Sec. 1. The corporation shall encourage and facilitate the development of health informatics functions in Indiana.

Sec. 2. The corporation is granted all powers necessary or appropriate to carry out the corporation's public and corporate purposes under this article.

Sec. 3. (a) Subject to approval by the budget agency, the corporation may, without the approval of the attorney general, employ legal counsel, technical experts, and other officers, agents, and employees, permanent or temporary, that the corporation considers necessary to carry out the efficient operation of the corporation.

(b) Subject to approval by the budget agency, the corporation may enter into contracts without the approval of the attorney

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general.

Sec. 4. (a) The corporation shall determine qualifications, duties, compensation, and terms of service for persons employed by the corporation as employees or as independent contractors.

(b) The board may adopt a resolution providing that the corporation's employees who are eligible to participate in the public employees' retirement fund under the eligibility requirements set forth in IC 5-10.2 and IC 5-10.3 shall participate in the public employees' retirement fund.

(c) The board may adopt a resolution to allow the corporation's employees to participate in group insurance and other benefit plans, including the state employees' deferred compensation plan, that are available to state employees.

Sec. 5. The board and the corporation's employees are:

- (1)** under the jurisdiction of and subject to rules adopted by the state ethics commission; and
- (2)** subject to ethics rules and requirements that apply to the executive branch of state government.

However, the board may adopt additional ethics rules and requirements that are more stringent than those adopted by the state ethics commission.

Sec. 6. (a) The board may create any advisory panels that the board considers useful to advise the board and the corporation on issues determined by the board.

(b) In creating an advisory panel to advise the board and the corporation on a particular issue, the board shall appoint advisers considered appropriate by the board. When the board determines the appropriate advisers to appoint to an advisory panel, the board shall consider the interests of at least the following health care system constituencies affected by the particular issue to be studied or reviewed by the advisory panel:

- (1)** Physicians.
- (2)** Insurers.
- (3)** Health maintenance organizations.
- (4)** Health care information systems.
- (5)** Hospitals and health systems.
- (6)** Laboratory services.
- (7)** Radiological services.
- (8)** Local health departments.
- (9)** Rural health organizations.
- (10)** Regional health information exchange organizations.
- (11)** Pharmacies.

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- (12) Pharmacy benefit managers.
- (13) Dentists.
- (14) Any other health care providers.
- (15) Patient safety organizations.
- (16) Behavioral health organizations.
- (17) Organizations concerned with health care information security and privacy.
- (18) Consumers.
- (19) The budget director or the director's designee.
- (20) The commissioner of the department of insurance or the commissioner's designee.

Sec. 7. For purposes of IC 34-13-2, IC 34-13-3, and IC 34-13-4, the board and the corporation's employees are public employees (as defined in IC 34-6-2-38).

Sec. 8. The corporation shall adopt rules under IC 4-22-2 to carry out the corporation's duties under this article. The board may also adopt emergency rules under IC 4-22-2-37.1 to carry out the board's duties under this article.

Sec. 9. Except as otherwise specifically provided by law, the corporation and the board are subject to IC 5-14-1.5 and IC 5-14-3.

Sec. 10. An employee of the corporation is entitled to receive:

- (1) reimbursement for traveling expenses to the same extent as is provided under IC 4-13-1-4 to officers and employees of state agencies; and
- (2) reimbursement of other expenses actually incurred in connection with the employee's duties as approved by the budget agency.

Sec. 11. The corporation may request appropriations from the general assembly to:

- (1) carry out the corporation's duties under this article; and
- (2) fund the effort to develop and operate a statewide health information exchange.

Sec. 12. (a) The Indiana health informatics fund is established.

(b) Except as provided in section 13 of this chapter, the corporation shall deposit the following in the fund:

- (1) All appropriations made by the general assembly to the corporation.
- (2) All funding received from nonprofit entities under IC 5-31-6-2(4).
- (3) All other contributions received by the corporation from a nonprofit entity, as long as the nonprofit entity does not otherwise have an interest in the decisions of the corporation

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or board.

(c) The corporation shall administer the fund. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) Except as provided in the terms of the contribution, money in the fund may be used at the discretion of the board to carry out in any manner the corporation's purposes under this article.

Sec. 13. (a) The board may establish a nonprofit subsidiary corporation to solicit and accept nonprofit entity contributions.

(b) A subsidiary corporation established under this section:

- (1) must use money received under subsection (a) to carry out in any manner the purposes and programs under this article;
- (2) must report to the budget committee each year concerning:

- (A) the use of money received under subsection (a); and
- (B) the balances in any accounts or funds established by the subsidiary corporation; and

- (3) may deposit money received under subsection (a) in an account or fund that is:

- (A) administered by the subsidiary corporation; and
- (B) not part of the state treasury.

(c) The state board of accounts shall annually audit a subsidiary corporation established under this section.

Sec. 14. The corporation may not issue bonds or any other debt obligations.

Sec. 15. The corporation may make grants, loans, and loan guarantees to carry out the purposes of this article.

Chapter 6. Duties

Sec. 1. The corporation shall do the following:

- (1) Define the vision for a statewide health information exchange system to electronically exchange health care information between entities in the health care system, including at least the following:

- (A) Physicians and other health care providers.
- (B) Health insurance companies and health maintenance organizations.
- (C) Federal and state governmental health payers.
- (D) Employers.

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- (E) Pharmacies and pharmacy benefit managers.
- (F) Laboratories.
- (G) Public health agencies.
- (2) Prepare and modify, as necessary, a plan to create the statewide health information exchange system.
- (3) Encourage and facilitate:
 - (A) the development of the statewide health information exchange system; and
 - (B) the ongoing operation of the statewide health information exchange system, including monitoring the performance, quality, and security of the statewide health information exchange system.
- (4) Respond to changes in the market, advances in technology, and metrics related to the statewide health information exchange system by encouraging and facilitating users of the statewide health information exchange system and other interested parties in building upon, adapting, and improving the statewide health information exchange system.
- (5) Evaluate, analyze, and report on Indiana's progress toward implementing the statewide health information exchange system.
- (6) Promote the use of the statewide health information exchange system by doing the following:
 - (A) Encouraging and facilitating users of the statewide health information exchange system and other interested parties in developing and adopting standards for the statewide health information exchange system.
 - (B) Recommending policies and legislation that advance the development and efficient operation of the statewide health information exchange system.
 - (C) Educating business and health care leaders and the public regarding the existence and benefits of the statewide health information exchange system.
- (7) Develop programs and initiatives to promote and advance the exchange of health information to improve the safety and quality of patient care and to reduce the waste associated with redundancy and administrative costs. The corporation shall do the following to carry out the corporation's duty under this subdivision:
 - (A) Cooperate with federal, state, and local governments and agencies in the coordination of programs to make the best use of Indiana's information and technology

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resources.

(B) Receive and expend funds, grants, gifts and contributions of money, property, labor, interest accrued from loans made by the corporation, and other things of value from public and private sources, including grants from agencies and instrumentalities of the state and federal government. The corporation:

- (i) may accept federal grants to carry out the corporation's purposes;
- (ii) shall administer these grants in accordance with the terms of the grants; and
- (iii) may contract with public or private organizations to carry out the purposes for which the grants were made.

(8) Review efforts in other states concerning health information exchange.

(9) Encourage and facilitate the development of health information exchange for those areas of Indiana where health care referral patterns cross state boundaries.

(10) Encourage and endorse interoperability standards.

Sec. 2. The corporation may do the following:

(1) Plan, direct, and conduct research activities.

(2) Encourage and facilitate:

(A) regional health information exchange planning; and

(B) the implementation of regional health information exchange;

designed to further the vision for a statewide health information exchange system.

(3) Direct that assistance, information, and advice regarding the duties and functions of the corporation be given to the corporation by an officer, agent, or employee of the executive branch of the state. The head of any other state department or agency may assign one (1) or more of the department's or agency's employees to the corporation on a temporary basis or may direct a division or agency under the department's or agency's supervision and control to make a special study or survey requested by the corporation.

(4) Solicit funding for selected initiatives from nonprofit entities that do not otherwise have an interest in the decisions of the corporation or board.

Sec. 3. The corporation's plan to create the statewide health information exchange system must provide for procedures and security policies to ensure the following:

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(1) Compliance with the federal Health Insurance Portability and Accountability Act (HIPAA) (P.L. 104-191).

(2) Protection of information privacy.

(3) Use of information in the statewide health information exchange system only in accordance with the federal Health Insurance Portability and Accountability Act (HIPAA) (P.L.104-191) and as required by public health agencies.

Chapter 7. Expiration

Sec. 1. (a) The corporation is abolished on June 30, 2015.

(b) Any assets and obligations of the corporation are transferred to the office of the secretary of family and social services on June 30, 2015.

Sec. 2. This article expires July 1, 2015.

SECTION 3. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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